

ADMINISTRATIVE PANEL DECISION

Lendlease Corporation Limited v. Privacy service provided by Withheld for Privacy ehf / Christopher Wilson
Case No. D2022-1564

1. The Parties

The Complainant is Lendlease Corporation Limited, Australia, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Christopher Wilson, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <lend-leaseinvest.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 29, 2022. On April 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 4, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 9, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 20, 2022.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on June 29, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Established in Australia in 1958, the Complainant is a real estate and investment group with expertise in shaping cities and creating strong and connected communities. Headquartered in Sydney, Australia, the Complainant operates in Australia, Europe, the Americas, and Asia. The Complainant has been entrusted with projects of public, cultural and social significance, including the construction of the Sydney Opera House, creation of the National September 11 Memorial & Museum in New York, and restoration and renovation of historic buildings, such as London's Tate Britain and National Theatre. Per the Complaint, in 2021, the Complainant reported a core operating profit after tax of USD 377 million and a statutory profit after tax of USD 222 million.

The Complainant operates under the trademarks LEND LEASE and LENDLEASE owning various trademark registrations for these marks, including: Australia Trademark Registration No. 650313, LEND LEASE, figurative, registered on July 20, 1994, in classes 35, 36, 37, 41, and 42; United States Trademark Registration No. 2,565,547, LEND LEASE, figurative, registered on April 30, 2002, in classes 35, 36, and 42; European Union Trade Mark Registration No. 000225458, LEND LEASE, word, registered on September 26, 2002, in class 42; and International Trademark Registration No. 1275185, LENDLEASE, word, registered on May 22, 2015, in classes 19, 35, 36, 37, 42, and 43, (collectively the "LEND LEASE mark").

Prior decisions under the Policy have recognized the international reputation of the LEND LEASE mark.¹

The Complainant further owns the domain name <lendlease.com> (registered on January 11, 1999), which resolves to its corporate website.

The disputed domain name was registered on September 26, 2021, and it is not possible to access to its current content, resolving to an Internet Browser message that indicates that this site may not be safe and through it, someone may try to deceive you or steal information submitted to the server by your device. According to the evidence provided by the Complainant, at the time of filing the Complaint the disputed domain name resolved to a website offering trading and investment services in the field of cryptocurrency. This site showed a German certificate of incorporation for a company named "LEND-LEASEINVEST", with registered address in Germany, allegedly issued by the Germany Sec Securities and Exchange Commission on October 9, 2016.

The Complainant submitted an abuse report to the Registrar on January 18, 2022, stating that the disputed domain name infringed the Complainant's trademark. The Registrar confirmed receipt of this abuse report on February 8, 2022, and stated that it will investigate the matter and it would forward the report to the registrant of the disputed domain name. The Complainant, however, never received any response to its abuse report.

¹ See, e.g., *Lendlease Corporation Limited v. Privacy service provided by Withheld for Privacy ehf / Victor Chuks*, WIPO Case No. [D2022-1563](#).

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The disputed domain name is confusingly similar to the LEND LEASE mark. The disputed domain name consists of the Complainant's mark adding a term that relates to the Complainant's business ("invest"). The Complainant's expertise includes infrastructure, design, development, investments and management. Its investments segment includes a leading wholesale investment management platform and the Group's ownership interests in property and infrastructure co-investments, Retirement Living, and US Military Housing. The use of a hyphen between the terms "lend" and "lease" does not diminish the confusing similarity, and the applicable generic Top-Level-Domain ("gTLD") ".com" is a standard registration requirement, and as such is disregarded under the first element confusing similarity test.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant, and is not authorized to use the LEND LEASE mark. The Respondent used a privacy Whols service, his name does not resemble the disputed domain name, and no evidence suggests that he is commonly known by the disputed domain name. At the time the Respondent registered the disputed domain name, the LEND LEASE mark enjoyed a high degree of reputation worldwide, and the disputed domain name has a high risk of implied affiliation with this mark, so the Respondent's website cannot be considered a *bona fide* offering of goods and services. This site further includes inconsistencies related to the location of the Respondent, and includes a certificate of incorporation that appears to be false, an almost identical certificate of incorporation can be found at a different website ("www.puissanttrade.com/?a=about"), supposedly issued by a different entity (Puissant Trade). The Respondent is engaged in a dishonest impersonation of the Complainant to mislead Internet users as to the origin of the disputed domain name and his website, to attract them to a website for commercial gain.

The disputed domain name was registered and is being used in bad faith. The reputation of the Complainant and its trademark, and the incorporation of this mark in the disputed domain name adding a term related to the Complainant business, indicates that the Respondent knew about the LEND LEASE mark when he registered the disputed domain name. Performing a search in Google's search engine for "lend lease invest" returns multiple links referring to the Complainant and its business. The Respondent generated a likelihood of confusion with the Complainant and its trademark, attempting to profit from such confusion by providing a platform supposedly for cryptocurrency investments. Evidence of this likelihood of confusion are various reports received by the Complainant from various consumers that thought that the disputed domain name and its associated website were owned by the Complainant. Further evidence of bad faith is the use of a privacy service to hide the Respondent's identity in the registration of the disputed domain name, and his lack of response to the Complainant's abuse report notification.

The Complainant has cited previous decisions under the Policy as well as various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant indisputably has rights in the LEND LEASE mark, both by virtue of its trademark registrations and as a result of continuous use of this mark over more than 60 years. The Complainant's first use of the LEND LEASE mark dates back to 1958.

The disputed domain name incorporates the LEND LEASE mark in its entirety, separating its terms by a hyphen and adding the term "invest", which does not prevent the finding of confusing similarity. The LEND LEASE mark is recognizable in the disputed domain name, and the gTLD ".com" is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, 1.9, and 1.11 of the [WIPO Overview 3.0](#).

Accordingly, this Panel finds that the disputed domain name is confusingly similar to the LEND LEASE mark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the Respondent's knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the respondent the burden of production to come forward with relevant evidence of rights or legitimate interests in the disputed domain name, once the complainant has made a *prima facie* case that the respondent lacks rights or legitimate interests.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Complainant's assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant's *prima facie* case. However, the Respondent has not replied to the Complainant's contentions, not providing any explanation and evidence of rights or legitimate interests in the disputed domain name.

The Panel notes that the disputed domain name is composed of terms included in the dictionary. In this respect, prior decisions under the Policy have recognized that registering a domain name comprised of a dictionary word or phrase may confer rights or legitimate interests on the respondent, when such domain name is genuinely used in connection with the relied-upon dictionary meaning, and not to trade off third-party trademark rights. See section 2.10 of the [WIPO Overview 3.0](#).

In the present case, according to the evidence provided by the Complainant, the disputed domain name has been used in connection to a website that promoted and offered various investments and trading services in the cryptocurrency field, and presently resolves to a security warning page.

The Panel considers that the past and present activity on the website does not genuinely responds to the dictionary meaning of the terms included in the disputed domain name and – in particular in their arrangement being “lend-lease” with the added term “invest” clearly seem designed to trade off of the Complainant’s well-known mark.

The Panel further considers that the Complainant has made a strong *prima facie* case that the Respondent is not commonly known by the terms “lend-lease invest”, providing evidence that point to the lack of authenticity of the certificate of incorporation shown in the Respondent’s website. Furthermore, in this respect, the Panel, under its general powers articulated *inter alia*, in in paragraph 10 of the Rules, has corroborated that, according to the Complainant’s allegations, the WIPO Global Brand Database does not show any trademark registration owned by the Respondent containing or consisting of the terms “lend-lease invest” or “lend-leaseinvest” and even Google searches for such terms turn up the Complainant.

It is further to be noted that the disputed domain name incorporates the LEND LEASE mark in its entirety, adding a hyphen and a term related to the Complainant’s business, and, particularly, to the Complainant’s investment services (mostly in real state). In the view of the Panel, the disputed domain name generates an implied affiliation (and risk of confusion) with the Complainant and its trademark, giving the impression that the disputed domain name may be referred to a new website owned and/or operated by the Complainant or by any business related company in connection to investments in a new field (cryptocurrency).

It is further remarkable that the Respondent has not replied to the Complainant’s abuse report, nor to the Complaint, not providing any explanation connected to any of the circumstances included in paragraph 4(c) of the Policy or any other circumstance that may be considered as rights or legitimate interests in the disputed domain name.

All the above-mentioned circumstances lead the Panel to conclude that the Respondent has not produced evidence to rebut the Complainant’s *prima facie* case, and all these facts and circumstances point to consider that the Respondent lacks of any rights or legitimate interests in the disputed domain name.

Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof is, likewise, the “balance of probabilities” or “preponderance of the evidence”.

The Panel notes the extensive use over the Internet of the LEND LEASE mark, as well as its continuous international use over more than 60 years, including in the United States where the Respondent is located according to the Registrar verification, and its international well-known character recognized by prior decisions under the Policy.²

The Panel has further corroborated that, according to the Complainant’s allegations, an Internet search for the terms included in the disputed domain name (“lend-lease invest”) reveals various results related to the Complainant and its business.

The Panel further notes that the disputed domain name incorporates the LEND LEASE mark adding a term (“invest”) that may contribute to generate a risk of confusion or implied association, referring to services included in the Complainant’s business (investment services), and creating the impression that the disputed domain name may refer to its official site (even if for a different type of investment services in the field of cryptocurrencies).

² See footnote No. 1, *supra*.

It is further remarkable that the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant's assertions of bad faith, choosing not to reply to the Complaint. The Respondent's reaction to the Complaint appears to have been blocking the access to the content related to the disputed domain name, because at the time of filing the Complaint the disputed domain name resolved to a website offering trading and investment services in the field of cryptocurrency, and now at the time of drafting this decision, it is not possible to see the content linked to the disputed domain name, resolving to an Internet Browser message that indicates that this site may not be safe.

Other relevant factor is the use of privacy services for the registration of the disputed domain name.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain name was registered targeting the Complainant's trademark in bad faith, seeking to mislead Internet users to believe that there is a connection between the disputed domain name and the Complainant and/or its trademark LEND LEASE, to increase the traffic of the Respondent's website for a commercial gain, which constitutes bad faith. This is further supported by the fact that the contact information at the prior website was that of a supposed cryptocurrency platform (the legitimacy of which seems in doubt given multiple misspellings of the own name of the company).

All of the above-mentioned circumstances lead the Panel to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain name in bad faith under the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <lend-leaseinvest.com> be transferred to the Complainant.

/Reyes Campello Estebaranz/

Reyes Campello Estebaranz

Sole Panelist

Date: July 13, 2022